

Application No. 09/555,529  
Reply to Office Action of March 6, 2006 and  
December 15, 2006

REMARKS/ARGUMENTS

Claims 30-79 are active in this application.

Support for the amendment to Claims 39, 40, 41, 42, 64 and 65 is found page pages 26, 28, 31-32 and 33 of the specification.

Claim 79 finds support in original Claim 74.

No new matter is added.

Applicants acknowledge the Examiner's indication that Claims 43-53, 66-73 and 76-78 are withdrawn based on a Restriction requirement and those claims have been duly noted as such. Nonetheless, the non-elected claims (43-58, 66-73 and 76-78) are maintained and not cancelled so that once the elected claims are found to be allowable, the non-elected process claims will be rejoined under the principles set forth in MPEP §821.04: "if applicant elects claims directed to the product, and a product claim is subsequently found allowable, withdrawn process claims which depend from or otherwise include all the limitations of the allowable product claim will be rejoined." Moreover, it is noted that these non-elected claims have been amended in a manner consistent with the elected subject matter so that upon consideration of rejoinder, the claims can be allowed with the elected claims.

As to the restriction of the search of the claims to both of the elected primer pairs (18/19 and 27/28), it is noted that this was an election of species (as opposed to a restriction between groups) with the understanding that once the elected species are to be found allowable, the Office should expand its search to include and allow the non-elected species.

Applicants appreciate the discussion held between the Examiner and their undersigned representative on April 20, 2006. During this discussion, the rejections raised under 35 USC 101 and 112, 2<sup>nd</sup> paragraph were discussed (see Interview Summary). It is believed that the rejection under 35 USC §101 would be withdrawn in light of the fact that

Application No. 09/555,529  
Reply to Office Action of March 6, 2006 and  
December 15, 2006

Claims 39 and 65 have been amended to be human cells and which was already apparent include isolated polynucleotides thereby explicitly involving the “hand of man.” Therefore, the claims do not encompass a naturally occurring host cell but rather includes a polynucleotide sequence that had been previously isolated as is specifically recited in the claim. Accordingly, withdrawal of the rejection under 35 USC 101 is requested.

The rejection of Claims 30-42 and 49-65 under 35 USC 112, second paragraph is believed to be no longer applicable in light of the amendments submitted. In particular, while the exact language suggested in the Office Action has not been adopted, the amendments that stated “with the exception that amino acids \_\_\_\_ to \_\_\_\_ are deleted in SEQ ID NO:\_\_\_\_” was a subject of discussion during the April 2006 conversation noted above. It is understood that this phrasing is acceptable and addresses this ground of rejection. Accordingly, Applicants request that this rejection be withdrawn.

The rejection of Claims 39-42 and 64-65 under 35 USC 112, first paragraph is believed to be no longer applicable in light of the amendments submitted. In particular, as noted above, these claims have been amended to state that the host cells are “human,” which is supported throughout the specification. It is also noted that the interest of using mammalian cells to express kin17cDNA is described in the attached publication of Kannouche (J Cell Science, 1999, 112, 3215-3224).

Withdrawal of this rejection is requested.

The rejection of Claim 74 under 35 USC 102 (a) or 102(b) in view of Matsuda or EST AI089251 is no longer applicable in light of the amendments submitted. In particular, SEQ ID NO:18 and 19 have been removed from Claim 74. In addition, Claim 79 defines the

Application No. 09/555,529  
Reply to Office Action of March 6, 2006 and  
December 15, 2006

polynucleotide as "consisting of" SEQ ID NO:18 or 19 and therefore, the disclosure in these two cited documents is inapplicable to this claim.

Withdrawal of this rejection is requested.

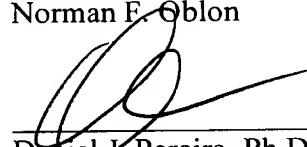
With respect to the Adams AAA reference, the relevant section was separately cited as reference AZ and has been considered.

A Notice of Allowance for all pending claims is earnestly solicited.

Should the Examiner deem that any further action is necessary to place this application in even form for allowance, she is encouraged to contact Applicants' undersigned representative.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.  
Norman E. Oblon

  
\_\_\_\_\_  
Daniel J. Pereira, Ph.D.  
Registration No. 45,518

Customer Number  
**22850**

Tel: (703) 413-3000  
Fax: (703) 413 -2220  
(OSMMN 06/04)